IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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W.P.NOS.9546,12215,10905,9349 & 8923 of 2005

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WRIT PETITION NO : 9546 of 2005

Between:

1. Bharati Educational society, Kesamudram, Warangal Dist. rep.by its Secretary Edla Ashok Reddy,
   S/o.Kommal Reddy, R/o.Kesamudram, Warangal Dist.

2. Maharshi Educational Society, Torrur Warangal Dist. rep.by its Secretary Jammula Anil Redd
   S/o.Venkata Reddy, R/o.Torrur, Warangal Dist.

3. Kakatiya Educational Society, Marripeda Warangal Dist. rep.by its Vice President,
   Ravula Ranjit reddy, S/o.Jagannatha Reddy,
   R/o.Marripeda Warangal Dist.

4. Ramakrishna Educational society, Tiruvuru, Krishna Dist. rep.by its Secretary L.Srinivas
   S/o.Venkateswara Rao. R/o.Tiruvuru, Krishna Dist.

..... PETITIONERS

AND

1. The Govt. of A.P., Higher Education (I.E.II) Department Secretariat, Hyderabad rep.by Prl.Secretary to the Govt.

2. The Board of Intermediate Education, Hyderabad rep.by its Commissioner and Secretary,
   Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring G.O.Rt.No.230 dated 23-3-2005 issued by the 1st respondent as illegal and arbitrary and contrary to G.O.Ms. No.114 and consequently direct the 2nd respondent to grant permission for opening of new college only in revenue mandals in which there are 220 or more surplus SSC pass outs as resolved in the 57th meeting of the Board of Intermediate held on 14-2-2005 and pass such other or further orders as the Hon'ble court feels deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioners : MR.O.MANOHER REDDY

Counsel for the Respondents : GP FOR EDUCATION

WRIT PETITION NO : 8923 of 2005

Between:

The Private Junior College Managements Association Hyderabad. Rep. by its Secretary, Sri K. Siddeswar, S/o. K.Yadaiah, Aged about 39 years, R/o. Hyderabad.

..... PETITIONER

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary,Higher Education Department, Secretariat, Hyderabad.
2. Board of Intermediate Education, Nampally, Hyderabad, Rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, especially, one in the nature of Writ of Mandamus declaring the orders of the State Government contained in G.O.Rt.No. 230 dt 23-3-2005 to the extent of directing the 2nd respondent to issue notifications for starting new private junior College for the academic year 2005-2006 without insisting upon area restrictions as illegal and contrary to Sec. 20 of the A.P. Educational Act and the Scheme contained in G.O.Ms.No. 114 dt. 9-8-2000 and consequently direct the respondents to grant permission for starting of new private junior colleges for the academic year 2005-2006 only in such revenue Mandala where the surplus candidates of 220 or more SSC Passouts are available strictly in accordance with the scheme contained in G.O.Ms.No. 114 dt. 9-8-2000 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case in the interest of justice.

Counsel for the Petitioner: MR.CH.RAVINDER

Counsel for the Respondent No.1: GOVERNMENT PLEADER for Education.

Counsel for the Respondent No.2: KUM.C.SINDHU KUMARI

WRIT PETITION NO : 10905 of 2005

Between:

Sri Srinivasa Junior College, Vidyaranga Education Society
Thotlavalluru Road, Vuyyuru, Krishna Disrict Rep. by its Secretary and
Correspondent P. Srinivasa Rao.

..... PETITIONER

AND

1. The Secretary, Education Department (Higher Education), Government of Andhra Pradesh, Secretariat, Hyderabad.
2. The Secretary, Board of Intermediate Education, Government of A.P. Nampally, Hyderabad.
3. The Director of Intermediate Education, Government of Andhra Pradesh, Nampally, Hyderabad.
4. Gemini Junior College, Thotlavalluru Road, Vuyyuru, rep. by its Director, Kanakamedla Balakoti.
5. Velagapudi Junior College, Vuyyuru, Krishna District, rep. by its Secretary, Velagapudi Ravi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents 1 to 3 in proposing to grant permission to start a junior college in Vuyyuru Mandal to the 4th and 5th respondents without adhering to the rules in G.O.Ms.No. 114 Higher Education (CE.III 2) Department, dt. 9-8-2000 contrary to section 20 of A.P. Education Act, 1982 as arbitrary, illegal apart from promoting unhealthy competition among the educational institutions and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.B.SOMASEKHAR

Counsel for the Respondents 1 TO 3: GP FOR EDUCATION

WRIT PETITION NO : 9349 of 2005

Between:

Affiliated Private Junior College Managements Association. A.P.NelloreUnit Rep by its Treasurer Sri ChallaChandraReddy
S/o.Late Pattabi Reddy R/o.16-3-155, Ramalingapuram Village, Nellore District.

..... PETITIONER

AND

1. The Govt of A.P. Rep by its Prl.Secretary, Higher Education , Secretariat Building Hyderabad.
2. The Secretary Board Of Intermediate Examinations. Rep by its Secretary Office at Nampally , Hyderabad.
3. The District Collector -Cum- District Commissioner of Examinations. Office at Collector Office, Nellore -Town and District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in issuing notification Rc.No.15 / E2-3/2005 dt.31-3-2005 published in EENADU Daily News Paper on 1-4-2005, as Violative of Section 20 of Andhra Pradesh Education Act and violative of G.O.Ms.No.29- dt.5-2-87, and also violative of G.O.Ms.No.114 dt.9-8-2000 issued by the 1st respondent and also Violative of the Articles 41,14,19 and 21 and of the Constitution of India , and to pass such other order.

Counsel for the Petitioner: MR.UNNAM.MURALIDHAR RAO

Counsel for the Respondents 1 & 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2 : Sri.S.S.PRASAD

WRIT PETITION NO : 12215 of 2005

Between:

1. Vidyabhi Vardhini Junior College, Thorrur, Warangal District, Rep by its Principal, K. Jayapal Reddy, S/o. Gopal Reddy, aged 40 years R/o. Thorrur, Warangal District.
2. Mahatma Junior College, Thorrur, Warangal District, rep by its Principal, K. Vekatachary
3. Vagdevi Junior College, Thuroor, Warangal District, rep by its Principal A. Devender Reddy, S/o. Krishna Reddy, aged 33 years.
4. Ekasila Junior College, Thorrur, Warangal District, rep by its Principal. P. Narasaiah
5. Samatha Junior College, Rep byits Correspondent, K. Raghunatha

Reddy,S/o Amrutha Reddy, aged 40 years, R/o. Thorrur.

..... PETITIONERS

AND

1. Board of Intermediate Education, Nampally, Hyderabad, Represented by its Secretary.

2. Regional Inspecting Officer, Board of Intermediate Education, Near Government Junior College, Hanmakonda, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring the notification dt. 31-3-2005 in Rc.No. 15/E2-3/2005 on the file of the first respondent which was published in Eenadu Telugu daily newspaper, as illegal, arbitrary and contrary to the provisions of AP Education Act and rules made thereunder; Award costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.N.SRIDHAR REDDY

Counsel for the Respondents: Kum.C.Sindhu Kumari.

The Court made the following :

COMMON ORDER:

1. These batch of writ petitions are filed by Private Junior Colleges Management Association, Hyderabad (for short 'the Association') questioning G.O.Rt.No.230 dated 23.3.2005 to the extent of directing the Board of Intermediate Education-2nd respondent herein to issue notification for starting new private junior colleges for the academic year 2005-2006 without insisting upon area restriction.

2. The facts leading to filing of these writ petitions may be summarized, in brief, as follows:

A junior college can be established with the permission of the Government under the provisions of the A.P.Education Act, 1982 (for short 'the Education Act'), the A.P.Intermediate Education Act, 1971 (for brevity 'the 1971 Act') and the Rules framed by the Government under Section 99 of the Education Act, known as "the

A.P.Educational Institutions (Establishment, Recognition, Administration and Control of Institutions of Higher Education) Rules, 1987", issued in G.O.Ms.No.29 dated 5.2.1987. Under the rules, the Board is the competent authority to accord permission and recognition to private junior colleges. The Affiliated Private Junior College Managements Association filed W.P.No.25442 of 2001 seeking invalidation of a notification dated 18.11.2001 issued by the Board of Intermediate Education. By the said notification, the Board invited applications from interested educational agencies for establishing new private junior colleges and starting additional sections in private junior colleges and for grant of affiliation to such private junior colleges etc. The said writ petition ended in dismissal. The contentions raised by the Affiliated Private Junior College Managements Association opposing the notification calling for applications for starting new junior colleges were negatived in the said writ petition. The present batch of writ petitions have been filed when the Board of Intermediate Education issued notification calling for applications for establishing new junior colleges for the academic year 2005-06. Their main grievance is that the Government issued G.O.Rt.No.230, dated 23.3.2005 inviting the applications for establishment of new private junior colleges without insisting area restriction.

3. The respondents have filed counter affidavits resisting the prayer sought for by the writ petitioners. It is suffice to refer the counter affidavits of respondents filed in W.P.No.8923 of 2005. It is stated in the counter filed by 1st respondent that the permission to establish new junior colleges will be accorded keeping in view various government orders governing the field. I deem it appropriate to refer para 2 of the counter affidavit of 1st respondent and it is thus:

> " 2. It is submitted that the Government have issued orders in G.O.Rt.No.230/HE/IE.II Department, dated 23-3-2005 permitting the Secretary, Board of Intermediate Education to issue notification for starting of new private junior colleges in the State for the academic year 2005-2006 in accordance with the guidelines and instructions were issued in the following Government Orders without insisting area restrictions.
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> 1. G.O.Ms.No.29 Education Department, dated 5-2-1987.

2. G.O.Ms.No.114 HE (CE.III.2) Department, dated 9.8.2000.

3. G.O.Ms.No.12 HE (IE.II) Department, dated 9.3.2002.

> 3. It is not stated that the approval will be given in contravention of the orders stipulated in the above 3 GOs. The writ is filed under a false presumption that the approval will be given in contravention of the rules and in contrary to the above 3 G.Os. Hence, the writ itself is not maintainable as it is filed only on the basis of apprehension of the petitioner, which is not even patent in terms of the impugned G.O. In pursuance of the orders of the Government in G.O.rt.No.230 HE (IE.II) Department, dated 23.3.2005, the Board has issued a notification in leading newspapers vide Rc.No.15/E2-3/2005, dated 30-3-2005 inviting applications from interested Registered Educational Societies/Trusts for establishment of new private unaided junior colleges in the State for the academic year 2005-2006 in accordance with the guidelines issued vide G.O.Ms.No.29 Education Department dated 5.2.1987, G.O.Ms.No.114 HE 9CE.III.2) Department, dated 9.8.2000 and G.O.Ms.No.12 HE (I.E.II) Department, dated 9.3.2002. The last date for filing the applications is on or before 30-4-2005."

4. It is stated in the counter affidavit filed by the 2nd respondent-Board that the permission to new private junior colleges in the State for the academic year 2005-2006 will be granted in accordance with the guidelines and instructions issued vide G.O.Ms.No.29 Education Department, dated 5.2.1987, G.O.Ms.No.114 HE(CE.III.2) Department, dated 9.8.2000 and G.O.Ms.No.12 HE (IE.II) Department dated 9.3.2002.

5. The respondents 1 and 2 have specifically stated in their counter affidavits that permissions will be granted in accordance with the Government Orders governing the field.

6. Learned counsel appearing for the petitioners submits that the 2nd respondent is contemplating to issue permission to new private junior colleges in violation of the guidelines issued in G.O.Ms.No.114 dated 9.8.2000. An argument has been advanced that under the guise of G.O.Rt.No.230 dated 23.3.2005 there is every

possibility of 2nd respondent not taking Mandal area as a unit in granting permission for the establishment of new junior colleges. Learned counsel appearing for 2nd respondent-Board submits that the 2nd respondent-Board will consider the applications for starting new private junior colleges strictly in accordance with the guidelines issued in G.O.Ms.No.114, dated 9.8.2000 and other Government Orders governing the field.

7. There are enough guidelines in the Government Orders subject to which the Board has to process the applications for grant of new colleges treating the Mandal area as a unit. A scheme was approved by the Government in G.O.Ms.No.114, dated 9.8.2000. In para I of the said Government Order, guidelines for establishment of new colleges or sanction of new sections or permitting shifting of the colleges areenuntiated. Indeed, the Board which is established under Section 3 of the Act is conferred with various powers under Section 9. It is also conferred with the power to make Regulations under Section 12 with the approval of the Government. The guidelines detailed in G.O.Ms.No.114, dated 9.8.2000 would show that the government have taken sufficient safeguards to avoid unhealthy competition among various junior colleges and also to ensure certain normative standards for maintaining manageable teacher-student ratio. When 1st and 2nd respondents have categorically stated in their counter affidavits that the applications for establishment of new junior colleges will be processed strictly in accordance with the guidelines issued in G.O.Ms.No.114, dated 9.8.2000 and other Government Orders governing the field, the apprehension of the writ petitioners is misconceived.

8. Accordingly these batch of writ petitions are disposed of directing respondents to follow the guidelines detailed in G.O.Ms.No.114, dated 9.8.2000 and other Government Orders governing in the field while granting permission to the new junior colleges. No order as to costs.

Dt: 21st June, 2005. (B.Seshasayana Reddy, J)

Tnb

Cc one week.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary, Govt. of A.P., Higher Education (I.E.II) Department Secretariat, Hyderabad.
2. The Commissioner and Secretary, Board of Intermediate Education, Nampally, Hyderabad.
3. The Secretary, Education Department (Higher Education), Government of Andhra Pradesh, Secretariat, Hyderabad.
4. The Director of Intermediate Education, Government of Andhra Pradesh, Nampally, Hyderabad.
5. The District Collector -Cum- District Commissioner of Examinations, Office at Collector Office, Nellore -Town and District.
6. Regional Inspecting Officer, Board of Intermediate Education, Near Government Junior College, Hanmakonda, Warangal District.
7. Two copies to Government Pleader for Education, High Court Buildings, Hyderabad.(OUT)
8. 2 CD copies.